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NO. LTC # 262-2013

2013 JUL 32 AM 9: 24 LETTER TO COMMISSION

TO:

Mayor Matti Herrera Bower and Members of the City Commission

FROM:

Jimmy L. Morales, City Manager

DATE:

July 30, 2013

SUBJECT: Beachwalk II Project from Sunrise Plaza to 5th Street

The purpose of this Letter to Commission is to provide an update on the Beachwalk II Project.

The Beachwalk II Project consists of an on-grade paver pathway that will connect South Pointe Park to the existing serpentine promenade in Lummus Park at 5<sup>th</sup> Street. In order to expedite the Coastal Construction Control Line permitting process, the City split the project into two phases: Phase I - South Pointe Drive to 3rd Street and Phase II - 3rd Street to 5th Street.

The City has obtained the easements from the adjacent upland properties and the permits necessary for construction of Phase I in the sand hard pack along the western side of the dunes. On July 17, 2013, the City Commission approved the award of contract to Team Contracting, Inc., for an amount not-to-exceed \$1,396,438. Construction is anticipated to begin in August 2013 and be complete by January 2014.

Florida Department of Environmental Protection (FDEP) regulations require the project be located as far landward as practicable on the landward side/slope of the dune. Florida Administrative Code requires minimization of impacts to the beach-dune system, including potential debris impacts and effects on marine turtles and their nesting habitat. Thus, the preferred location of the project is in the existing hardpack along the western toe of the dune. which is already being utilized by the public for recreational purposes.

Since 2009, the City has conducted meetings with individual properties and provided perpetual easement documents for their review and approval. In June 2012, the City presented the project at the South of Fifth Neighborhood Association. On September 6, 2012, a public meeting at City Hall was held to reintroduce the project to the upland properties between 3rd Street and 5th Street. At this meeting, staff provided an update on Phase I and discussed the need to obtain easements to continue Phase II in the existing sand spoil area west of the dune. At this meeting, several residents stated that their condominium documents require a majority of owners to vote to approve providing an easement to the City, which is very difficult for condominium associations to obtain.

Section 718.111 of the Florida Statutes states that a condominium association may acquire, convey, lease, or mortgage association real property in the manner provided in the condominium documents, and if the documents do not specify the procedure, then approval of 75 percent of the total voting interests is required. Staff has reached out to all the properties located between 3<sup>rd</sup> Street and 5<sup>th</sup> Street to again request easements and copies of each property's condominium documents to confirm each association's ability to convey the necessary easements to the City.

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Residents in the buildings between  $3^{rd}$  Street and  $5^{th}$  Street have opposing views on the path's location. While some residents prefer that the City improve the existing hardpack, others would like the path shifted east into the protective dune system. At this time the City has not yet received any easements between  $3^{rd}$  Street and  $5^{th}$  Street.

If you have any questions, please feel free to call me.

## MT/ETC/JJF/RWS/ESW

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